

We must give law enforcement the tools to keep apace with new technology and to get a step ahead of the threats faced by our ever-evolving world.

This bill takes an important step in that effort and I urge my colleagues to support it.

The SPEAKER pro tempore. The question is on the motion offered by the gentlewoman from Texas (Ms. JACKSON LEE) that the House suspend the rules and pass the bill, S. 2629.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds being in the affirmative, the yeas have it.

Mr. CLYDE. Mr. Speaker, on that I demand the yeas and nays.

The SPEAKER pro tempore. Pursuant to section 3(s) of House Resolution 8, the yeas and nays are ordered.

Pursuant to clause 8 of rule XX, further proceedings on this motion are postponed.

### HOMICIDE VICTIMS' FAMILIES' RIGHTS ACT OF 2021

Ms. JACKSON LEE. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3359) to provide for a system for reviewing the case files of cold case murders at the instance of certain persons, and for other purposes, as amended.

The Clerk read the title of the bill.

The text of the bill is as follows:

H.R. 3359

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

#### SECTION 1. SHORT TITLE.

This Act may be cited as the “Homicide Victims’ Families’ Rights Act of 2021”.

#### SEC. 2. CASE FILE REVIEW.

(a) *IN GENERAL.*—The head of an agency shall review the case file regarding a cold case murder upon written application by one designated person to determine if a full reinvestigation would result in either the identification of probative investigative leads or a likely perpetrator.

(b) *REVIEW.*—The review under subsection (a) shall include—

(1) an analysis of what investigative steps or follow-up steps may have been missed in the initial investigation;

(2) an assessment of whether witnesses should be interviewed or reinterviewed;

(3) an examination of physical evidence to see if all appropriate forensic testing and analysis was performed in the first instance or if additional testing might produce information relevant to the investigation; and

(4) an update of the case file using the most current investigative standards as of the date of the review to the extent it would help develop probative leads.

(c) *CERTIFICATION IN LIEU OF REVIEW.*—In any case in which a written application for review has been received under this Act by the agency, review shall be unnecessary where the case does not satisfy the criteria for a cold case murder. In such a case, the head of the agency shall issue a written certification, with a copy provided to the designated person that made the application under subsection (a), stating that final review is not necessary because all probative investigative leads have been exhausted or that a likely perpetrator will not be identified.

(d) *REVIEWER.*—A review required under subsection (a) shall not be conducted by a person who previously investigated the murder at issue.

(e) *ACKNOWLEDGMENT.*—The agency shall provide in writing to the applicant as soon as reasonably possible—

(1) confirmation of the agency’s receipt of the application under subsection (a); and

(2) notice of the applicant’s rights under this Act.

(f) *PROHIBITION ON MULTIPLE CONCURRENT REVIEWS.*—Only one case review shall be undertaken at any one time with respect to the same cold case murder victim.

(g) *TIME LIMIT.*—Not later than 6 months after the receipt of the written application submitted pursuant to subsection (a), the agency shall conclude its case file review and reach a conclusion about whether or not a full reinvestigation under section 4 is warranted.

(h) *EXTENSIONS.*—

(1) *IN GENERAL.*—The agency may extend the time limit under subsection (g) once for a period of time not to exceed 6 months if the agency makes a finding that the number of case files to be reviewed make it impracticable to comply with such limit without unreasonably taking resources from other law enforcement activities.

(2) *ACTIONS SUBSEQUENT TO WAIVER.*—For cases for which the time limit in subsection (g) is extended, the agency shall provide notice and an explanation of its reasoning to one designated person who filed the written application pursuant to this section.

#### SEC. 3. APPLICATION.

Each agency shall develop a written application to be used for designated persons to request a case file review under section 2.

#### SEC. 4. FULL REINVESTIGATION.

(a) *IN GENERAL.*—The agency shall conduct a full reinvestigation of the cold case murder at issue if the review of the case file required by section 2 concludes that a full reinvestigation of such cold case murder would result in probative investigative leads.

(b) *REINVESTIGATION.*—A full reinvestigation shall include analyzing all evidence regarding the cold case murder at issue for the purpose of developing probative investigative leads or a likely perpetrator.

(c) *REVIEWER.*—A reinvestigation required under subsection (a) shall not be conducted by a person who previously investigated the murder at issue.

(d) *PROHIBITION ON MULTIPLE CONCURRENT REVIEWS.*—Only one full reinvestigation shall be undertaken at any one time with respect to the same cold case murder victim.

#### SEC. 5. CONSULTATION AND UPDATES.

(a) *IN GENERAL.*—The agency shall consult with the designated person who filed the written application pursuant to section 2 and provide him or her with periodic updates during the case file review and full reinvestigation.

(b) *EXPLANATION OF CONCLUSION.*—The agency shall meet with the designated person and discuss the evidence to explain to the designated person who filed the written application pursuant to section 2 its decision whether or not to engage in the full reinvestigation provided for under section 4 at the conclusion of the case file review.

#### SEC. 6. SUBSEQUENT REVIEWS.

(a) *CASE FILE REVIEW.*—If a review under subsection (a) case file regarding a cold case murder is conducted and a conclusion is reached not to conduct a full reinvestigation, no additional case file review shall be required to be undertaken under this Act with respect to that cold case murder for a period of five years, unless there is newly discovered, materially significant evidence. An agency may continue an investigation absent a designated person’s application.

(b) *FULL REINVESTIGATION.*—If a full reinvestigation of a cold case murder is completed and a suspect is not identified at its conclusion, no additional case file review or full reinvestigation shall be undertaken with regard to that cold case murder for a period of five years beginning

on the date of the conclusion of the reinvestigation, unless there is newly discovered, materially significant evidence.

#### SEC. 7. DATA COLLECTION.

(a) *IN GENERAL.*—Beginning on the date that is three years after the date of enactment of this Act, and annually thereafter, the Director of the National Institute of Justice shall publish statistics on the number of cold case murders.

(b) *MANNER OF PUBLICATION.*—The statistics published pursuant to subsection (a) shall, at a minimum, be disaggregated by the circumstances of the cold case murder, including the classification of the offense, and by agency.

#### SEC. 8. PROCEDURES TO PROMOTE COMPLIANCE.

(a) *REGULATIONS.*—Not later than one year after the date of enactment of this Act, the head of each agency shall promulgate regulations to enforce the right of a designated person to request a review under this Act and to ensure compliance by the agency with the obligations described in this Act.

(b) *PROCEDURES.*—The regulations promulgated under subsection (a) shall—

(1) designate an administrative authority within the agency to receive and investigate complaints relating to a review initiated under section 2 or a reinvestigation initiated under section 4;

(2) require a course of training for appropriate employees and officers within the agency regarding the procedures, responsibilities, and obligations required under this Act;

(3) contain disciplinary sanctions, which may include suspension or termination from employment, for employees of the agency who are shown to have willfully or wantonly failed to comply with this Act;

(4) provide a procedure for the resolution of complaints filed by the designated person concerning the agency’s handling of a cold case murder investigation or the case file evaluation; and

(5) provide that the head of the agency, or the designee thereof, shall be the final arbiter of the complaint, and that there shall be no judicial review of the final decision of the head of the agency by a complainant.

#### SEC. 9. WITHHOLDING INFORMATION.

Nothing in this Act shall require an agency to provide information that would endanger the safety of any person, unreasonably impede an ongoing investigation, violate a court order, or violate legal obligations regarding privacy.

#### SEC. 10. MULTIPLE AGENCIES.

In the case that more than one agency conducted the initial investigation of a cold case murder, each agency shall coordinate their case file review or full reinvestigation such that there is only one joint case file review or full reinvestigation occurring at a time in compliance with section 2(f) or 4(d), as applicable.

#### SEC. 11. APPLICABILITY.

This Act applies in the case of any cold case murder occurring on or after January 1, 1970.

#### SEC. 12. DEFINITIONS.

In this Act:

(1) The term “designated person” means an immediate family member or someone similarly situated, as defined by the Attorney General.

(2) The term “immediate family member” means a parent, parent-in-law, grandparent, grandparent-in-law, sibling, spouse, child, or step-child of a murder victim.

(3) The term “victim” means a natural person who died as a result of a cold case murder.

(4) The term “murder” means any criminal offense under section 1111(a) of title 18, United States Code, or any offense the elements of which are substantially identical to such section.

(5) The term “agency” means a Federal law enforcement entity with jurisdiction to engage in the detection, investigation, or prosecution of a cold case murder.

(6) The term “cold case murder” means a murder—

(A) committed more than three years prior to the date of an application by a designated person under section 2(a);

(B) previously investigated by a Federal law enforcement entity;

(C) for which all probative investigative leads have been exhausted; and

(D) for which no likely perpetrator has been identified.

#### SEC. 13. ANNUAL REPORT.

(a) *IN GENERAL.*—Each agency shall submit an annual report to the Committees on the Judiciary of the House of Representatives and of the Senate describing actions taken and results achieved under this Act during the previous year.

(b) *REPORT DESCRIBED.*—The report described in subsection (a) shall include—

(1) the number of written applications filed with the agency pursuant to section 2(a);

(2) the number of extensions granted, and an explanation of reasons provided under section 2(h);

(3) the number of full reinvestigations initiated and closed pursuant to section 4; and

(4) statistics and individualized information on topics that include identified suspects, arrests, charges, and convictions for reviews under section 2 and reinvestigations under section 4.

The SPEAKER pro tempore. Pursuant to the rule, the gentlewoman from Texas (Ms. JACKSON LEE) and the gentleman from Oregon (Mr. BENTZ) each will control 20 minutes.

The Chair recognizes the gentlewoman from Texas.

#### GENERAL LEAVE

Ms. JACKSON LEE. Mr. Speaker, I ask unanimous consent that all Members have 5 legislative days in which to revise and extend their remarks and include extraneous material on the bill under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Texas?

There was no objection.

Ms. JACKSON LEE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I support H.R. 3359, the Homicide Victims' Families' Rights Act of 2021, and urge my colleagues to support this bipartisan legislation, which establishes a procedure for families of murder victims in cases investigated at the Federal level to continue to pursue justice for their murdered family member when the trail has gone cold. There is nothing more devastating for a family to live without answers in the midst of a violent death of their loved one.

This legislation gives a designated family member the right to request a review of their murdered loved one's case file after 3 years. Unfortunately, 4 out of 10 murder victims' families in this country never receive any closure in the loss of their family member.

FBI data shows the percentage of homicides cleared by an arrest or other means has declined significantly from 1965 to today, while the number of unsolved homicides grows by the thousands nationwide every year.

In 2019, four Texas cities cleared 40 percent or less of reported homicides, according to the FBI statistics. Low clearance rates lead to low confidence in law enforcement and reduce citizen

cooperation, which led to even lower clearance rates. The backlog of cases and low clearance rates disproportionately affect murder victims who are poor, undereducated, unemployed, and Black, and without resources to pursue this with a private investigator or with an extended legal team. They are left to their own devices. Mr. Speaker, you know what that is, remorse, sadness, devastation, family break-ups, loss that can never be repaired.

Poor Black and Brown victims and their families tend to receive less attention to their cases from law enforcement than those of other socioeconomic backgrounds and racial groups, and their cases go unsolved. This, of course, however, impacts Americans across the board. The pain is deep without easing, without ceasing. This legislation is important. This disparate treatment is unacceptable as well. We can and we must provide justice for all victims and their families.

Mr. Speaker, I hope this legislation will set a new tone—eliminating disparate treatment—impacting vulnerable communities of poor Black and Brown families who never receive closure, while serving as a model for State, local, and Tribal governments where the vast majority of unsolved murders lie, and as well, help all Americans no matter what their condition and station in life and no matter where they live.

H.R. 3359 will require Federal law enforcement agencies to use fresh eyes—and I have seen this actually work—to complete a case file, review, and determine if a full reinvestigation could lead to new probative investigative leads.

This legislation will encourage equitable treatment of victims and their families by requiring that Federal law enforcement, including the victims' families in the case file review and reinvestigation process. That means notifying them and giving them hope; provide written certification to a designated family member if a final review is not necessary; update that family member throughout the case file review and full reinvestigation; and meet with and discuss the evidence with that family member if a full reinvestigation is not pursued.

There is nothing like closure. It has been shown that cold case investigations can be very effective by using agents and investigators who have never worked the cases before, and by deploying up-to-date investigative techniques. Cold case investigations help take violent criminals off the street and to bring closure.

Let me take note of the fact that the Judiciary Committee as a whole is very active in pursuing the issue of cold cases to the extent that this Department of Justice has established a unit that works on it. I would say, however, an infusion of energy and excitement and utilization of this effort would be welcomed because this is an important message and effort for our families.

In 2010, the FBI and a cold case detective began a joint reexamination of the death of Ellen Beason in 1985, whose remains were found south of Houston in an area called the killing fields. Almost 30 years later, the cold case detective requested x-rays of the body which showed that the woman's skull had been cracked on both sides from a forceful blow. Her body had never been x-rayed.

The main suspect in the murder was finally convicted of involuntary manslaughter in 2014. He was sentenced to 20 years in prison, and was named as the leading suspect in the murder of other women found in the killing fields, though he was never charged.

H.R. 3359 mandates that a law enforcement agency must conduct a full reinvestigation like the one that brought justice to Ellen Beason's family if probative investigative leads result from a full investigation. How necessary this is for mourning and very, very devastated families.

This bipartisan legislation represents an important step in fostering renewed hope for families and is supported by a broad array of advocates, including the Federal Law Enforcement Officers Association, the National Organization of Parents of Murdered Children, the National Coalition Against Domestic Violence, and the Association of Prosecuting Attorneys.

Mr. Speaker, I am so grateful to Congressman ERIC SWALWELL, a member of the House Judiciary Committee, for his passion on this issue and his astute continued effort on this bipartisan bill that will bring light and hope to families of victims who seek justice for their loved ones.

Mr. Speaker, I ask my colleagues to join me in supporting this bill today, and I reserve the balance of my time.

Mr. BENTZ. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 3359, the Homicide Victims' Families' Rights Act of 2021. This bill creates a process for relatives of homicide victims to request that Federal agencies rereview the case of their lost family member once the case has gone cold.

To be clear, this bill would only apply to Federal cases of murder, and it wouldn't apply to murder cases investigated by State and local law enforcement, which are most cases.

The majority of cold cases at issue under this bill are likely to be cases arising from Tribal jurisdictions. Fortunately, President Trump already took steps to try to solve cold cases in Tribal jurisdictions. In November of 2019, President Trump signed an executive order to create the Operation Lady Justice Task Force.

In its first year, this task force opened seven offices across the country to address the number of missing and murdered indigenous women. The task force held listening sessions, Tribal consultations, webinars, meetings with law enforcement, and victims' services programs, and formed domestic violence and sexual assault coalitions.

The task force put out guidance and protocols, developed relationships with entities like missing persons clearing-houses, began training for investigators and volunteers, and started a public awareness campaign. This was all in 2020.

This legislation is cut from similar cloth as President Trump's executive order creating that task force. Hopefully, it will motivate the Biden administration to continue President Trump's good work.

Mr. Speaker, I reserve the balance of my time.

Ms. JACKSON LEE. Mr. Speaker, I yield 5 minutes to the gentleman from California (Mr. SWALWELL), the author and leader of this bill. I thank him so much for his very astute leadership.

Mr. SWALWELL. Mr. Speaker, I thank the gentlewoman for her continued leadership in this area and the gentleman from Oregon for his support.

Mr. Speaker, this legislation plainly says and will plainly make so that the sun will never set on justice for victims of homicides and their families seeking closure.

I want to thank the chairman and ranking member for their unanimous support of my bill, H.R. 3359, the Homicide Victims' Families' Rights Act of 2021. I really appreciate the majority leader and the Speaker for allowing this measure to be considered before the floor today.

I also want to thank my co-lead on this legislation, former Federal prosecutor, Congressman MIKE MCCAUL from Texas, for his dedication to bringing justice to victims of unsolved homicides. His perspective, having served in the Federal courts, brought with him a wealth of knowledge on criminal investigations at both the State and Federal level.

I also want to acknowledge former Assistant United States Attorney from the District of Columbia, Glenn Kirschner, who worked with my office, after spending many years serving as a prosecutor in the District of Columbia to detail the pain and suffering that far too many families face when they see their loved ones' cases go unsolved. Mr. Kirschner's expertise has been invaluable as I drafted this legislation to ensure no victim is forgotten.

I also have relied upon my own experience as a prosecutor, knowing that no jury verdict, no criminal sentence can bring back to life a lost loved one. However, I have been in the courtroom when a guilty verdict is delivered in a murder case and I have seen the closure that the families experience when that occurs for them.

I have also met with a number of families where they have not yet seen their family member's killer brought to justice. There is a marked difference. This revitalizes the review and reinvestigation processes for cold case homicide files. Upon request by a loved one or a family member 3 years after a case goes cold, my legislation requires a complete reexamination of the file

and accompanying evidence, new or renewed interviews with potential subjects and witnesses and other methods to identify possible missteps.

□ 1715

Improvements in technology, resources, and evidence-based techniques will also better equip law enforcement agencies with tools they need to review files under a novel lens, one that would assist in identifying new leads and witnesses to solve crimes and obtain justice that victims' families and loved ones so rightfully deserve.

It also assists investigators in homicide cases that serve important underserved communities such as Native Americans on Indian Reservations, Federal law enforcement officers killed in action, U.S. citizens who are murdered abroad, or homicides that take place on Federal land and the high seas.

It will also serve as a crucial model for the States to look at a Federal law that could inspire in their own States, the ability to adopt a local Homicide Victims Bill of Rights.

This law enforcement with additional disaggregated and detailed information about cold case homicides that will assist agencies across State lines to help triangulate homicide trends and investigate and identify new leads. Valuable information, combined with existing commitments toward finding justice for unsolved murders, has led to full endorsements of my bill by both advocacy groups and law enforcement associations alike.

The need for this bill is great. And every year, countless homicides leave mothers and fathers without children, spouses widowed, and sons and daughters without parents. The crimes spare no one, whether it is the unfortunate victim, or the family member who is left with lasting shock, turmoil, and grief. And after all, murder never discriminates, nor does it prioritize.

Special care is especially needed for cold case crimes. The FBI Uniform Crime Report estimates 250,000 homicides cases are unsolved. And as of today, we have more than 3,000 unsolved homicide cases right here in our own Nation's Capital. The number of unsolved homicides that eventually attain cold-case status increases each year by an average of 6,000.

That is why I am urging my friends on both sides of the aisle to swiftly pass H.R. 3359, and to join our colleagues on the Judiciary Committee who unanimously supported the passage of this legislation.

Mr. BENTZ. Mr. Speaker, I reserve the balance of my time.

Ms. JACKSON LEE. Mr. Speaker, it is my pleasure to yield 2 minutes to the distinguished gentleman from Rhode Island (Mr. CICILLINE), a member of the Judiciary Committee.

Mr. CICILLINE. Mr. Speaker, I thank the gentlewoman for yielding.

I rise today in strong support of the Homicide Victims' Families' Rights

Act, legislation that will help tackle the backlog of cold cases and bring long overdue justice to more than a quarter of a million unresolved or unsolved murder cases.

It is estimated that every murder victim leaves behind more than four family members. This means that more than a million grieving loved ones, families, friends, and communities, are still waiting for answers.

And this is not just a problem in older cases. In 2017, the FBI Uniform Crime Report estimated that across all levels of law enforcement, investigators were only able to close 62 percent of murder cases. We can help remedy this with the Homicide Victims' Families' Rights Act.

This bill empowers families by affording them the right to have their loved ones' homicide cases examined by a Federal investigator to see if the case should be reinvestigated.

This is an important review process to establish, especially since our technological and scientific investigation techniques are constantly evolving and being improved, providing law enforcement new tools to investigate even the oldest of cold cases.

This is a straightforward, smart bill that will hopefully bring peace to victims' loved ones who are too often left in the dark.

I want to thank my friend and colleague, Congressman SWALWELL, for his extraordinary leadership on this bipartisan bill and encourage all my colleagues to join me in voting "yes."

Mr. Speaker, I include in the RECORD a national victims' organization group coalition letter of support; individual letters of support from The American Investigative Society of Cold Cases, Parents of Murdered Children, Inc., and Murder Accountability Project; and individual letters of support from the Association of Prosecuting Attorneys, and the Federal Law Enforcement Officers Association.

DECEMBER 6, 2021.

Re Support the Homicide Victims' Families Rights Act.

Chairman JERROLD NADLER,  
House Judiciary Committee,  
Washington, DC.

Ranking Member JIM JORDAN,  
House Judiciary Committee,  
Washington DC.

DEAR CHAIRMAN NADLER AND RANKING MEMBER JORDAN: The undersigned organizations strongly support the bipartisan Homicide Victims' Families Rights Act (HVFR). It is our understanding that this legislation, which is introduced by Representatives Eric Swalwell (CA-15) and Michael McCaul (TX-10), is being considered before your committee.

Violent homicides affect so many more lives than just the victim. The undersigned organizations all provide essential resources to families and loved one of homicide cases by engaging in ongoing emotional support, education, prevention, advocacy, and awareness. We provide continued support to survivors during the devastation and helplessness they constantly feel while waiting for justice and closure for the murder of their loved ones.

HVFR would expand rights to the families and loved ones in federal cases by requiring reviews and reinvestigations of cold case

homicides. HVFRA would also provide relevant resources to law enforcement agencies by updating and categorizing the types of crimes that lead to homicide, cold cases. With our collective goals towards supporting families and loved ones who seek justice for unsolved, crimes, we collectively agree that HVFRA will provide important resources which will provide justice.

The HVFRA assists families and loved ones of homicide victims by:

Reinvigorating reviews of cold case murders files. Reviews are initiated upon request by a loved one or family member three years after a case goes "cold." A case is "cold" if no suspect is readily identifiable and all leads have been exhausted.

Providing a full reinvestigation using the most up-to-date technologies and investigative standards. Following a review request, if law enforcement concludes that new probative investigative leads would result, a full re-analysis must be undertaken. This includes a complete review of the file and accompanying evidence, new or renewed interviews with potential subjects and witnesses, and other methods to identify possible missed steps.

Increasing transparency in national crime databases. The National Institute of Justice would annually publish detailed statistics on the number of cold cases, aggregated by the types of associated crimes and agency. This information will assist law enforcement agencies across state lines to help identify trends and hopefully find new leads.

Ensuring reviews and reinvestigations are working. Federal law enforcement agencies would be required to provide annual reports to Congress on what is working and what is not working with new investigations. This will aide in ensuring that programs are biased towards assisting family members and loved ones find justice.

The undersigned organizations proudly support the HVFRA. This important legislation is completely aligned with our collective commitment towards assisting those who suffer following a cold case homicide. It is our hope that the House Judiciary Committee will promptly markup this legislation so that it can be received before the full House floor for swift passage.

Sincerely,

American Investigative Society of Cold Cases.

Murder Accountability Project.

National Coalition Against Domestic Violence.

National Organization for Victim Assistance.

Parents of Murdered Children, Inc.

Project: Cold Case.

Uncovered.

Washington, DC, December 3, 2021.

Re Support the Homicide Victims' Families Rights Act.

Chairman JERROLD NADLER,

House Judiciary Committee, Washington, DC.

Ranking Member JIM JORDAN,

House Judiciary Committee, Washington, DC.

DEAR CHAIRMAN NADLER AND RANKING MEMBER JORDAN: The American Investigative Society of Cold Cases strongly supports the bipartisan Homicide Victims' Families Rights Act (HVFRA). It is our understanding that this legislation, which is introduced by Representatives Eric Swalwell (CA-15) and Michael McCaul (TX-10), is being considered before your committee.

Violent homicides affect so many more lives than just the victim. The undersigned organization provides essential resources to families and loved ones of homicide cases by engaging in on-going emotional support, education, prevention, advocacy, and awareness. We provide continued support to survivors

during the devastation and helplessness they constantly feel while waiting for justice and closure for the murder of their loved ones.

HVFRA Would expand rights to the families and loved ones in federal cases by requiring reviews and reinvestigations of cold case homicides. HVFRA would also provide relevant resources to law enforcement agencies by updating and categorizing the types of crimes that lead to homicide cold cases. With our collective goals towards supporting families and loved ones who seek justice for unsolved crimes, we collectively agree that HVFRA will provide important resources which will provide justice.

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Providing a full reinvestigation using the most up-to-date technologies and investigative standards. Following a review request, if law enforcement concludes that new probative investigative leads would result, a full re-analysis must be undertaken. This includes a complete review of the file and accompanying evidence, new or renewed interviews with potential subjects and witnesses, and other methods to identify possible missed steps.

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Ensuring reviews and reinvestigations are working. Federal law enforcement agencies would be required to provide annual reports to Congress on what is working and what is not working with new investigations. This will aide in ensuring that programs are biased towards assisting family members and loved ones find justice.

The undersigned organizations proudly support the HVFRA. This important legislation is completely aligned with our collective commitment towards assisting those who suffer following a cold case homicide. It is our hope that the House Judiciary Committee will promptly markup this legislation so that it can be received before the full House floor for swift passage.

Sincerely,

DR. CHRIS KUNKLE,

President, American Investigative Society of Cold Cases.

NATIONAL ORGANIZATION OF

PARENTS OF MURDERED CHILDREN, INC.,

Cincinnati, OH, December 8, 2021.

Re Support Homicide Victims' Families Rights Act.

Chairman JERROLD NADLER,

House Judiciary Committee,

Washington, DC.

Ranking Member JIM JORDAN,

House Judiciary Committee,

Washington, DC.

DEAR CHAIRMAN NADLER AND RANKING MEMBER JORDAN: The National Organization of Parents Of Murdered Children (POMC), a nonprofit organization dedicated to solely to the aftermath and prevention of murder. POMC makes the difference through ongoing emotional support, education, prevention, advocacy and awareness. POMC is very supportive of the Homicide Victims' Families Right Act under consideration before your committee.

POMC has many families of victims of unsolved homicides. We listen to the survivor

talk about the story of their loved one's homicide and the questions they have because it has not been solved. Their emotions, frustration and devastation they feel, along with the helplessness that anything can be done to bring justice and closure to the murder of their loved one.

POMC has a program called Second Opinion Service that we refer families to when investigators have not been able to solve the case or don't understand why the case is not going to court. The Second Opinion Service is made up of retired law enforcement, medical examiners, prosecutors who volunteer their time to look at the family's case and they will give their opinion to the family. Most of the time these are cold cases and we will not look at an open case. The family's are relieved and comforted that someone will look at the case. This is why the "Support Homicide Victims' Families Rights Act" would be so important to a family whose loved one's case is a cold case and just the thought that law enforcement would look at it again is comforting to them.

POMC believes that the policies within the Homicide Victims' Families Rights Act should be Adopted by law enforcement agencies as best practices for unresolved murder. It is our hope that the House Judiciary Committee will promptly markup this legislation so that it can be received before the full House floor for swift passage.

For further information about our organization you can visit our website [www.pomc.org](http://www.pomc.org), or if you have additional questions regarding our support for this legislation please do not hesitate to contact us.

Sincerely,

BEVERLY J. WARNOCK,

Executive Director,

Parents of Murdered Children.

MURDER ACCOUNTABILITY PROJECT,

Alexandria, VA, December 8, 2021.

Re Support Homicide Victims' Families Rights Act.

Chairman JERROLD NADLER,

House Judiciary Committee,

Washington, DC.

Ranking Member JIM JORDAN,

House Judiciary Committee,

Washington, DC.

DEAR CHAIRMAN NADLER AND RANKING MEMBER JORDAN: The Murder Accountability Project (MAP), a nonprofit organization dedicated to educating Americans on the importance of accurately accounting for unsolved homicides within the United States, wishes to express its unconditional support for the Homicide Victims' Families Rights Act under consideration before your committee.

MAP regularly receives communications from family members of victims of unsolved homicides. We cannot adequately express to you the depth of emotion, frustration, and consternation these people feel, as well as helplessness that anything can be done to bring justice and closure to these killings.

We regularly advise families to request a formal review of the investigation by police personnel to determine if new avenues are available to seek case clearance. This recommendation would be precisely codified in the Homicide Victims' Families Rights Act. More specifically, this legislation allows family members or loved ones to seek additional review and re-investigation into files that have achieved a "cold case" status. It would also ensure that older files are reviewed under the most up-to-date investigative standards to aid law enforcement in identifying new probative leads or potential perpetrators.

In short, we believe that the policies within the Homicide Victims' Families Rights

Act should be adopted by law enforcement agencies as best practices for unresolved murders. It is our hope that the House Judiciary Committee will promptly markup this legislation so that it can be received before the full House floor for swift passage.

For further information about our organization, or if you have additional questions regarding our support for this legislation, please do not hesitate to contact us.

Warmest Regards,

THOMAS HARGROVE,  
Chairman, Murder Accountability Project.

ASSOCIATION OF  
PROSECUTING ATTORNEYS,  
December 2, 2021.

Re. Support of Homicide Victims' Families Rights Act.

Chairman JERROLD NADLER,  
House Judiciary Committee,  
Washington, DC.

Ranking Member JIM JORDAN,  
House Judiciary Committee,  
Washington, DC.

DEAR CHAIRMAN NADLER AND RANKING MEMBER JORDAN: The Association of Prosecuting Attorneys (APA) is a private, non-profit organization whose mission is to support and enhance the effectiveness of prosecutors in their efforts to create safer communities. We are a national organization supporting all prosecutors, including both appointed and elected, as well as their deputies and assistants.

On behalf of the APA, I am writing in support of your efforts regarding the proposed Homicide Victims' Families Rights Act. This Act will give homicide victims' families and loved ones a reignited hope that justice may still be afforded to the victims of these crimes. The provisions in this Act will grant the opportunity for cold cases to be reopened so that new investigations, utilizing the latest testing and investigative techniques, may produce results which previous methods were unable to achieve. With the steady increase of cold cases this Act is integral to providing an opportunity to ensure that justice is upheld in our communities.

The APA remains committed to working with congressional leaders, victims' families and loved ones, and victims' rights organizations in support of this Act. We believe that this Act will not only aid the grieving families and communities but will improve the entirety of the criminal justice system.

APA appreciates your time and efforts on the Homicide Victims' Families Rights Act. Should you have any questions or need any additional information, feel free to contact me.

Respectfully submitted,

DAVID LABAHN,  
President/CEO.

FEDERAL LAW ENFORCEMENT  
OFFICERS ASSOCIATION,  
Washington, DC, December 6, 2021.

Hon. ERIC SWALWELL,  
Washington, DC.

DEAR REPRESENTATIVE SWALWELL: We write to you today on behalf of the 30,000 federal law enforcement members in FLEOA to express our strong support for H.R. 3359, "Homicide Victims Rights Act of 2021."

The loss of a family member is tragic, made more so when they are the victim of a crime that remains unsolved. It is imperative that all families have a resolution. As technologies have improved, the chance of getting to that resolution of a crime has also dramatically improved. Agencies with these types of cases should endeavor to use every modern means available to review these cases and if possible, bring the new technologies and science to bear to try to solve

them. These agencies will also be more capable if resourced and funded appropriately in this important work.

Thank you again for your leadership on this effort. We look forward to continuing to work with you on these matters and if we can be of any additional assistance, feel free to contact us.

Sincerely,

LARRY COSME,  
National President,  
Federal Law Enforcement Officers  
Association.

Mr. BENTZ. Mr. Speaker, I urge my colleagues to support this bill, and I yield back the balance of my time.

Ms. JACKSON LEE. Mr. Speaker, I yield myself such time as I may consume.

Let me thank the gentleman from Oregon for his support of this legislation; and as well, again thank Mr. SWALWELL for that commitment to helping families who are typically desperate for help in these cold cases.

Let me cite as a comparison that does not deal with the end of a case, but it does deal with the intervention of the Federal Government, the FBI, in particular, on a child predator case in a local neighborhood, where local law enforcement were doing their very best.

But when we were able to reach out to the FBI, although the case was not cold in its conclusion, it was cold in its investigation, its current investigation, and the FBI did bring new and fresh eyes to help us with that terrible case.

So when we have cases that are a cold case, the backlog of cold case murders continues to grow, and I think this legislation means a lot to these families. When they grow cold, this means that thousands of murderers evade prosecution and continue to walk the streets, able to commit more crimes and possibly more murders, while thousands of mothers, fathers, husbands, wives, sons, and daughters, have yet to find closure in the loss of their loved ones.

And let me just say, Mr. Speaker, I think you realize, that pain is so deep, and it never goes away. That is why this bill is so important. This legislation would result in more closed cases, justice for victims, closure for their families, and greater faith in law enforcement.

Mr. Speaker, again I want to indicate that this bill is important. I thank my colleagues for supporting this bill in a bipartisan manner, and I ask them to join me in supporting this bill today.

Mr. Speaker, I yield back the balance of my time.

Ms. JACKSON LEE. Mr. Speaker, I support H.R. 3359, the "Homicide Victims' Families' Rights Act of 2021," and urge my colleagues to support this bipartisan legislation, which establishes a procedure for families of murder victims, in cases investigated at the federal level, to continue to pursue justice for their murdered family member when the trail has gone cold.

This legislation gives a designated family member the right to request a review of their

murdered loved one's case file after three years.

Unfortunately, four out of ten murder victims' families in this country never receive any closure in the loss of their family member.

FBI data shows the percentage of homicides cleared by an arrest or other means has declined significantly from 1965 to today while the number of unsolved homicides grows by the thousands nationwide every year.

In 2019, four Texas cities, including Houston, cleared 40 percent or less of reported homicides, according to FBI statistics.

Low clearance rates lead to low confidence in law enforcement and reduced citizen cooperation, which lead to even lower clearance rates.

The backlog of cases and low clearance rates disproportionately affect murder victims who are poor, undereducated, unemployed, and black.

Poor, black, and brown victims and their families tend to receive less attention to their cases from law enforcement than those of other socioeconomic backgrounds and racial groups and their cases go unsolved.

This disparate treatment is unacceptable. We can and we must provide justice for all victims and their families.

I hope this legislation will set a new tone—eliminating disparate treatment—impacting vulnerable communities of poor black and brown families who oftentimes never receive closure, while serving as a model for state, local, and tribal governments where the vast majority of unsolved murders lie.

H.R. 3359 will require federal law enforcement agencies, using "fresh eyes," to complete a case file review and determine if a full reinvestigation could lead to new probative investigative leads.

This legislation will encourage equitable treatment of victims and their families by requiring that federal law enforcement: (1) include the victim's family in the case file review and reinvestigation process; (2) provide written certification to a designated family member if final review is not necessary; (3) update that family member throughout the case file review and full reinvestigation; and (4) meet with and discuss the evidence with that family member if a full reinvestigation is not pursued.

It has been shown that cold case investigations can be very effective. By using agents and investigators who have never worked the cases before and by deploying up-to-date investigative techniques, cold case investigations help take violent criminals off the street and bring closure to families.

In 2010, the FBI and a cold case detective began a joint reexamination of the death of Ellen Beason in 1985, whose remains were found south of Houston in an area called the "Killing Fields."

Almost thirty years later, the cold case detective requested x-rays of the body, which showed that the woman's skull had been cracked on both sides from a forceful blow. Her body had never been X-rayed.

The main suspect in the murder was finally convicted of involuntary manslaughter in 2014, sentenced to 20 years in prison, and named as the leading suspect in the murder of other women found in the Killing Fields, though he was never charged.

H.R. 3359 mandates that a law enforcement agency must conduct a full reinvestigation like the one that brought justice to Ellen Beason's

family, if probative investigative leads would result from a full reinvestigation.

This bipartisan legislation represents an important step in fostering renewed hope for families and is supported by a broad array of advocates, including the Federal Law Enforcement Officers Association, the National Organization of Parents of Murdered Children, the National Coalition Against Domestic Violence, and the Association of Prosecuting Attorneys.

I thank Chairman ERIC SWALWELL for his astute effort on this bipartisan bill that will help families of victims seek justice for their loved ones.

The backlog of cold case murders continues to grow nationally. This means that thousands of murderers evade prosecution and continue to walk the streets, able to commit more crimes, and possibly more murders, while thousands of mothers, fathers, husbands, wives, sons, and daughters have yet to find closure in the loss of their loved ones.

That is why this bill is so important. This legislation would result in more closed cases, justice for victims, closure for their families, and greater faith in law enforcement.

I ask that my colleagues join me in supporting this bill today.

The SPEAKER pro tempore. The question is on the motion offered by the gentlewoman from Texas (Ms. JACKSON LEE) that the House suspend the rules and pass the bill, H.R. 3359, as amended.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds being in the affirmative, the ayes have it.

Mr. CLYDE. Mr. Speaker, on that I demand the yeas and nays.

The SPEAKER pro tempore. Pursuant to section 3(s) of House Resolution 8, the yeas and nays are ordered.

Pursuant to clause 8 of rule XX, further proceedings on this motion are postponed.

#### PROHIBITING PUNISHMENT OF ACQUITTED CONDUCT ACT OF 2021

Ms. JACKSON LEE. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 1621) to amend section 3661 of title 18, United States Code, to prohibit the consideration of acquitted conduct at sentencing, as amended.

The Clerk read the title of the bill.

The text of the bill is as follows:

H.R. 1621

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

#### SECTION 1. SHORT TITLE.

This Act may be cited as the “Prohibiting Punishment of Acquitted Conduct Act of 2021”.

#### SEC. 2. ACQUITTED CONDUCT AT SENTENCING.

(a) USE OF INFORMATION FOR SENTENCING.—

(1) AMENDMENT.—Section 3661 of title 18, United States Code, is amended by inserting “, except that a court of the United States shall not consider, except for purposes of mitigating a sentence, acquitted conduct under this section” before the period at the end.

(2) APPLICABILITY.—The amendment made by paragraph (1) shall apply only to a judgment entered on or after the date of enactment of this Act.

(b) DEFINITIONS.—Section 3673 of title 18, United States Code, is amended—

(1) in the matter preceding paragraph (1), by striking “As” and inserting the following:

“(a) As”; and

(2) by adding at the end the following:

“(b) As used in this chapter, the term ‘acquitted conduct’ means—

“(1) an act—

“(A) for which a person was criminally charged and with regard to which—

“(i) that person was adjudicated not guilty after trial in a Federal, State, or Tribal court; or

“(ii) any favorable disposition to the person in any prior charge was made, regardless of whether the disposition was pretrial, at trial, or post trial; or

“(B) in the case of a juvenile, that was charged and for which the juvenile was found not responsible after a juvenile adjudication hearing; or

“(2) any act underlying a criminal charge or juvenile information dismissed—

“(A) in a Federal court upon a motion for acquittal under rule 29 of the Federal Rules of Criminal Procedure; or

“(B) in a State or Tribal court upon a motion for acquittal or an analogous motion under the applicable State or Tribal rule of criminal procedure.”.

#### SEC. 3. DETERMINATION OF BUDGETARY EFFECTS.

The budgetary effects of this Act, for the purpose of complying with the Statutory Pay-As-You-Go Act of 2010, shall be determined by reference to the latest statement titled “Budgetary Effects of PAYGO Legislation” for this Act, submitted for printing in the Congressional Record by the Chairman of the House Budget Committee, provided that such statement has been submitted prior to the vote on passage.

The SPEAKER pro tempore. Pursuant to the rule, the gentlewoman from Texas (Ms. JACKSON LEE) and the gentleman from Oregon (Mr. BENTZ) each will control 20 minutes.

The Chair recognizes the gentlewoman from Texas.

#### GENERAL LEAVE

Ms. JACKSON LEE. Mr. Speaker, I ask unanimous consent that all Members have 5 legislative days to revise and extend their remarks and include extraneous materials on H.R. 1621.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Texas?

There was no objection.

Ms. JACKSON LEE. I yield myself such time as I may consume.

Mr. Speaker, I am very proud to support H.R. 1621, the Prohibiting Punishment of Acquitted Conduct Act, which offers a solution to a long-identified problem within our criminal justice system.

This bill provides necessary reform to current Federal sentencing practice that allows judges to sentence defendants based on conduct for which a jury has found them not guilty.

The Sixth Amendment to the Constitution provides that anyone accused of a crime shall enjoy the right to a speedy and public jury trial, while the Fifth Amendment provides that no person shall be deprived of life, liberty, or property, without due process of law.

These provisions mean that the government is bound to move each and

every element of an offense for which a defendant is charged beyond a reasonable doubt during a jury trial, or that defendant must admit each element of an offense to support a plea of guilty. Absent that, those offenses are not found guilty, if you will, to the individual.

Notwithstanding this constitutional obligation, Federal judges routinely nullify not guilty verdicts rendered by juries and sentence defendants to significantly higher penalties based on acquitted conduct.

In its current form, 18 U.S.C. 3661 prohibits any limitation of the conduct a judge may consider when sentencing a defendant, even when a jury has determined that there was insufficient evidence to prove the defendant committed the charged offense; it seems clearly a constitutional violation.

Additionally, under the concept of “relevant conduct,” the U.S. Sentencing Guidelines allow judges to consider a range of conduct, including dismissed charges, uncharged conduct, and acquitted conduct when imposing sentences. Again, might I say, seemingly a very unfair direction given without limitations, and certainly without adherence to the constitutional amendments.

The fact-finding made by judges at sentencing is based on a lower evidentiary standard than at trial—that is, by a preponderance of evidence—which many scholars defined as a 50 percent chance that a claim is true.

The reform proposed in this bill ensures that judges punish defendants on facts proven beyond a reasonable doubt, criminal standard, the higher evidentiary standard of proof required during a jury trial, which some scholars attach a value of 90 to 95 percent surety.

Justice Ginsberg, a moderate liberal who became more liberal in later years, joined Justice Thomas and Justice Scalia, a staunch conservative, in his dissent in *Jones v. United States*, lamenting the failure of the Court to determine if the Sixth Amendment is violated when judges impose sentences based solely on judge-found facts.

While the Sentencing Guidelines suggested prison sentences from 27 to 71 months for the three defendants in the case, the trial judge imposed—if you can believe it—overwhelming sentences of 180, 194, and 225 months, based on the conduct the prosecution failed to prove.

Justice Scalia’s often-quoted dissent was issued more than 7 years ago. Yet nothing has been done about this unjust, undemocratic practice and, really, unconstitutional, which diminishes the sanctity of the jury trial, the standard of reasonable doubt, which any layman can tell you. When you ask them what the standard is for proving guilt or innocence in a criminal trial, everybody knows the words, “with reasonable doubt.”

Can you imagine? That is not the case.